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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,
11 Plaintiff,

12 vs.

13 Donivan John Hale, et.al.,
14 Defendant.
15

MJ-22-0083-N/A (LAB)

**GOVERNMENT'S NOTICE OF SPEEDY
TRIAL EXCLUSION PURSUANT TO 18
U.S.C. § 3161(b)**

16 The defendant was arrested on January 19, 2022, and the government initiated this
17 felony case via complaint.

18 Although 18 U.S.C. § 3161(b) requires that an indictment issue within 30 days from
19 a defendant's arrest or the service of a summons, D. Ariz. General Order 22-02 (issued
20 January 7, 2022) suspended all grand jury proceedings "until further notice" in order to
21 protect the public against a district-wide health concern created by the arrival of the
22 Omicron variant¹. A grand jury was last in session in the District of Arizona, Tucson, on
23 January 5, 2022. Defendant's grand jury deadline would have been February 18, 2022.
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26 ¹ Actions taken to limit court operations during the COVID-19 health crisis are
27 also described in prior general orders dating back to March 13, 2020. General Order 20-
28 10, issued on March 13, 2020, was superseded by General Orders 20-13 and 20-15, and
made obsolete by General Order 21-05, which was later superseded by General Orders 21-
11 and 21-18.

1 The Speedy Trial Act automatically provides for an additional 30 days in which to
2 seek an indictment “when no grand jury has been in session during [the] thirty-day period”
3 following a defendant’s arrest. 18 U.S.C. § 3161(b). No government motion is required.
4 *See United States v. Mann*, 701 F.3d 274, 284–85 (8th Cir. 2012) (“The plain language of
5 section 3161(b) is unambiguous: where a grand-jury is not in session during the thirty-day
6 period, ‘the period of time for filing of the indictment shall be extended an additional thirty
7 days.’ 18 U.S.C. § 3161(b). Pursuant to the language of the statute, the extension of time
8 is automatic; no Government motion is required.”)

9 Because the grand jury has not been scheduled to reconvene, it will not be in session
10 during the 30 days immediately following the defendant’s arrest. Therefore, the
11 government submits this Notice that the indictment deadline will be automatically extended
12 for 30 days pursuant to 18 U.S.C. § 3161(b), resulting in a new deadline of on or before
13 March 20, 2022.

14 Respectfully submitted this 15th day of February, 2022.

15 GARY M. RESTAINO
16 United States Attorney
17 District of Arizona

18 MICAHA SCHMIT
19 Assistant U.S. Attorney

20 Copy of the foregoing served electronically or by
21 other means this 15th day of February, 2022, to:

22 All ECF Participants
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